

# Supreme Court of Florida

CORRECTED OPINION

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No. 66,471

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STATE OF FLORIDA, Petitioner,

vs.

GEORGE W. BURCH, Respondent.

[September 26, 1985]

SHAW, J.

We have jurisdiction under article V, section 3(b)(4), of the Florida Constitution to answer the following certified question of great public importance:

WHEN AN APPELLATE COURT FINDS THAT A SENTENCING COURT HAS RELIED ON ONE OR MORE IMPERMISSIBLE REASONS FOR DEPARTING FROM THE SENTENCING GUIDELINES, AND HAS ALSO RELIED ON ONE OR MORE PERMISSIBLE REASONS, MAY THE APPELLATE COURT APPLY THE HARMLESS ERROR RULE AND AFFIRM THE SENTENCE?

Burch v. State, 462 So.2d 548, 549 (Fla. 1st DCA 1985). We have answered the certified question in Albritton v. State, No. 66,169 (Fla. Aug. 29, 1985). See also State v. Carney, No. 66,163 (Fla. Aug. 29, 1985) and State v. Young, No. 66,257 (Fla. Aug. 29, 1985). We approve the decision below.

It is so ordered.

BOYD, C.J., and ADKINS, OVERTON, McDONALD and EHRLICH, JJ.,  
Concur

NOT FINAL UNTIL TIME EXPIRES TO FILE REHEARING MOTION AND, IF  
FILED, DETERMINED.

Application for Review of the Decision of the District Court  
of Appeal - Certified Great Public Importance

First District - Case No. AX-132

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